For an editorial note on whether property may be taken for public esthetics, either because of the police power or by eminent domain, see this issue of the REVIEW, p. 571.

CONTEMPT OF COURT — POWER TO PUNISH — DISOBEDIENCE OF INJUNCTION ORDERED BY APPELLATE COURT, REVERSING LOWER COURT. — A mandatory injunction having been refused by the lower court, the upper court decreed that an injunction issue. The defendants disobeyed this injunction before its formal adoption by the lower court. *Held*, that the lower court has jurisdiction to punish. *Fortescue* v. *McKeown*, [1914] 1 Ir. Ch. 30.

To obtain jurisdiction to enforce a final judgment rendered in an appellate court at law, the lower court must formally adopt it as its own. *Clapper* v. *Bailey*, 10 Ind. 160. But on appeal in equity the decree of the appellate court is as though rendered by the court below. The latter therefore has the same jurisdiction over subsequent proceedings as after its own decree. *Sowdon* v. *Marriott*, 2 Phil. 623; S. C. *Flight* v. *Marriott*, 12 Jur. 487. The appellate court should not be the one to punish the disobedience of its decree rendered on appeal. *Dowagiac Mfg. Co.* v. *Minnesota Moline Plow Co.*, 124 Fed. 735. An injunction takes effect from the time ordered, and before the formal sealing of the writ. *Rattray* v. *Bishop*, 3 Madd. 220; *Winslow* v. *Nayson*, 113 Mass. 411, 420. And it is binding on a party who has actual notice, irrespective of formal entry or service. *Hearn* v. *Tennant*, 14 Ves. 136; *Poertner* v. *Russell*, 33 Wis. 193; *Winslow* v. *Nayson*, *supra*, 420. See also *Daniel* v. *Ferguson*, [1891] 2 Ch. 27, 29. Since in the principal case the defendant's knowledge of the order appears unquestionable, the lower court clearly had power to punish, and its refusal on jurisdictional grounds was error. However, in the absence of formal service, the lower court should be sure that there is actual notice of the order. *Dowagiac Mfg. Co.* v. *Minnesota Moline Plow Co.*, *supra*, 736. And since the failure to obey a mandatory injunction generally results only in a continuance of the *status quo*, to refuse to punish until formal service, which can be easily procured, would seem well within the court's discretion. Disobedience of a restraining order is obviously different.

CORPORATIONS — TORTS AND CRIMES — LIABILITY FOR LARCENY. — The Tyson Ticket corporation purchased, on behalf of a customer, two season tickets for the Metropolitan Opera at New York. It then pledged these tickets to secure a loan to itself. *Held*, that the corporation may be convicted of larceny. *People* v. *Tyson & Company, Inc.*, 50 N. Y. L. J. 1829 (City Magistrates' Ct., N. Y., Jan., 1914).

If allowed to stand, this will be the first conviction of a corporation for felony. As such, it is opposed by two modern decisions. *Commonwealth* v. *Punxsutawney Street Passenger R. Co.*, 24 Pa. Co. Ct. 25; *Queen* v. *Great West Laundry Co.*, 13 Manitoba, 66. But four earlier cases hold corporations liable for misdemeanors involving criminal intent. *State* v. *Eastern Coal Co.*, 29 R. I. 254, 70 Atl. 1; *United States* v. *John Kelso Co.*, 86 Fed. 304; *Grant Bros. Construction Co.* v. *United States*, 13 Ariz. 388, 114 Pac. 955; *United States* v. *McAndrews & Forbes Co.*, 149 Fed. 823. The cases argue that since a corporation is liable for wilful torts of its agents, therefore its agents' criminal intent must be "imputed" to a corporation charged with crime. *Green* v. *London General Omnibus Co.*, 7 C. B. N. S. 290; *Reed* v. *Home Savings Bank*, 130 Mass. 443. But the ground of civil responsibility in the cases cited is not that an actual malicious intent is "imputed" to the corporation. Every master is liable for his agents' wilful torts committed in an attempt to accomplish the purposes of the employment, on grounds wholly independent of the master's state of mind. *Bergman* v. *Hendricksen*, 106 Wis. 434, 82 N. W. 304; see 1 CLARK & SKYLES, AGENCY, § 493. Yet clearly he is not held for his servant's crimes

— where a criminal mind is an essential element — unless he has personally participated. *Commonwealth* v. *Nichols*, 10 Metc. (Mass.) 259; see 1 CLARK & SKYLES, AGENCY, § 520. It must follow that corporations can be held for such offenses only by applying *respondeat superior* to them where it does not apply to individuals, or else by treating the acts of its governing officers as the personal acts of the corporation itself. No court has ever expressly adopted the first alternative, and it cannot be justified unless — as seems doubtful — the law fails to apply *respondeat superior* to all crimes merely out of tenderness to innocent human employers. See *Commonwealth* v. *Wachendorf*, 141 Mass. 270, 271, 4 N. E. 817, 818. But there is reason to think that the second alternative is the law. The Supreme Court holds corporations liable in exemplary damages for the torts of their "officers," but not for those of their "agents." *Denver & Rio Grande Ry. Co.* v. *Harris*, 122 U. S. 597, 7 Sup. Ct. 1286; *Lake Shore & M. S. Ry. Co.* v. *Prentice*, 147 U. S. 101, 13 Sup. Ct. 261. A few other cases hold that corporations act *per se* through their officers. *American Soda Fountain Co.* v. *Stolzenbach*, 75 N. J. L. 721, 68 Atl. 1078; *Bank of Toronto* v. *McDougall*, 15 U. C. C. P. 475. This idea seems sensible. Abandoning the notion that a corporation is an ideal being and treating it simply as an organization of men, the officers by which that organization acts appear as integral parts of the corporation, and their official acts as the immediate acts of the corporation itself. See 21 HARV. L. REV. 535. Apparently some regular officer was concerned in every crime involving an evil intent of which a corporation has yet been convicted. It is believed that these decisions are correct in result and represent an unconscious adoption of the principle which the Supreme Court has applied to the case of exemplary damages.

CRIMINAL LAW — EFFECT OF UNAUTHORIZED POSTPONEMENT OF EXECUTION. — After legally sentencing the petitioner to two years' imprisonment, the trial court illegally gave him his liberty on condition that he leave the state. After two years he returned. *Held*, that he must serve the original sentence. *Ex parte Lujan*, 137 Pac. 587 (N. Mex.).

Illegal delay in sentencing one convicted permanently deprives the court of its jurisdiction to pronounce sentence. *People* v. *Barrett*, 202 Ill. 287, 67 N. E. 23; *United States* v. *Wilson*, 46 Fed. 748. Some courts have given like effect to illegal postponement of execution of sentence, after the time the sentence should have expired if served. *In re Webb*, 89 Wis. 354, 62 N. W. 177; *Ex parte Clendenning*, 1 Okla. Cr. 227, 97 Pac. 650. The cases seem clearly distinguishable. A valid sentence having been imposed, the prisoner is illegally at large. Sentence is not satisfied when the prisoner is at liberty after escape. *Dolan's Case*, 101 Mass. 219. Nor when liberty is due to the neglect of the sheriff. *Miller* v. *Evans*, 115 Ia. 101, 88 N. W. 198. There seems to be no reason for distinguishing the illegal act of the court. And the principal case is supported by authority. *Fuller* v. *State*, 1 Miss. 811, 57 So. 806; *Neal* v. *State*, 104 Ga. 509, 30 S. E. 858.

COVENANTS RUNNING WITH THE LAND — COVENANTS IN SUPPORT OF AN EASEMENT — AFFIRMATIVE COVENANTS IN EQUITY. — A. granted land to B. with an easement to take power from a water wheel on A.'s adjoining land. A. also covenanted to construct and maintain a shaft from the wheel to B.'s land. The plaintiff, the grantee of B., sought enforcement against A.'s grantee. *Held*, that the defendant is bound as to the easement but not as to the covenant. *Miller* v. *Clary*, 103 N. E. 1114 (N. Y.).

The New York courts have previously held that an affirmative covenant runs with the land in equity if it is such as can be enforced according to the ordinary rules of specific performance. See 14 HARV. L. REV. 301. This has been the prevailing American view. See 22 HARV. L. REV. 597. The